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VIA TELEFAX

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Friends of the Yellowstone Elk Herd
Post Office Box 7
Pray, MT 59065

Re: Friends of the Elk Proposed Wolf Litigation

Dear Friends:

The purpose of this letter is to discuss with you litigation proposed by the Friends of the Northern Yellowstone Elk Herd ("Friends"). As recommended and pursuant to the Endangered Species Act ("ESA"), the Friends have petitioned for wolf delisting. That petition was denied by the U.S. Fish and Wildlife Service ("FWS"). The next step is to file a Complaint in the Federal District Court in either Montana or Washington D.C. challenging the FWS's decision to deny delisting the wolf. That Complaint may include both a challenge to the merits of the FWS's decision, as well as to the process used by the FWS to make the decision. At this point, I have not reviewed the underlying record to be able to give you a recommendation on the exact causes of action that should be included, but with the denial of the petition to delist, the Friends have both standing to litigate and a "final agency action" over which to litigate.

There also may be a federal court challenge to the FWS's decision pursuant to the National Environmental Policy Act ("NEPA"). Under NEPA, the causes of action would stem from either erroneous assumptions or failure to consider "adequate data" in the original environmental impact statement(s) ("EIS") supporting re-introduction of the wolf, and the FWS's failure to correct these deficiencies in a Supplemental Environmental Impact Statement ("SEIS"). To recommend and support such causes of action, we would need expert witness review and analysis of the existing EIS, looking at the following issues (note this list is not exhaustive, but would give the experts a place to start their review):

- A. Are the livestock/wildlife depredations estimates accurate, as proven over time?
- B. Did the FWS use proper science/modeling/assumptions in describing the economic or environmental consequences of re-introduction?
- C. Have there been new data/science/studies generated since the EIS was released that should be considered or that could impact any of the analysis regarding wolf re-introduction?
- D. Have the predictive models or data used by the FWS in the original EIS proven accurate?

You also requested an estimate of the costs of the proposed litigation against the FWS. Because I have not reviewed the administrative record, nor have I reviewed the attachments to the Friends' petition to delist, I cannot give you a firm estimate of costs. I can tell you that assuming that you separately have an expert to review the technical merits of the FWS's decision, I estimate that review of the Friends petition to delist and attachments, and the preparation of a Complaint would be approximately \$40,000. Once a Complaint is filed, the FWS would provide the administrative record ("AR"). I am assuming that the AR for this litigation would be substantial and that it would cost at least \$50,000 to review it. Once that review is complete, I estimate that preparation of a Motion for Summary Judgment and the Reply to the FWS's Motion for Summary Judgment would be approximately \$50,000. If the AR is not what I envision it to be, the costs for its review and preparation of the Summary Judgment could significantly change. We would require a \$15,000.00 retainer which would be replenished monthly, prior to initiating our review and filing a Complaint.

Should you have any questions, please do not hesitate to contact me.

Sincerely:

/s/ Karen Budd-Falen

Karen Budd Falen
BUDD-FALEN LAW OFFICES, LLC

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